

## ORDINANCE NO. 1276

### **AN ORDINANCE DEFINING AND PROHIBITING THE RUNNING OF DOGS AT LARGE IN TILLAMOOK CITY, OREGON; AND PROVIDING FOR LICENSING THEREOF; AND PROVIDING FOR THE CARE OF DOGS; AND CREATING ANIMAL NUISANCE AND PROVIDING A PENALTY FOR VIOLATION THEREOF; AND REPEALING ORDINANCES No. 891, 903, 917, 1066, 1076 AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT, HEREWITH**

**WHEREAS**, the City of Tillamook has an Ordinances pertaining to the prohibiting of dogs running at large, definitions, fines, fees, and penalties relating to violations, and

**WHEREAS**, the City of Tillamook wishes to create a schedule of fines, fees and penalties for dog and animal regulations in a Resolution, and

**WHEREAS**, the City of Tillamook wishes to repeal all past ordinances pertaining to Dog and Animal Regulations including Ordinance 891, 903, 917, 1066, 1076 and all other Ordinances or parts of Ordinances in conflict herewith.

**NOW THEREFORE, THE PEOPLE OF THE CITY OF TILLAMOOK CITY, OREGON, DO ORDAIN AS FOLLOWS:**

#### **Section 1.** Definitions

Allow: To neglect to restrain, or permit.

Attempts To Bite. The overt actions of a dog which constitute a substantial step towards the actual biting of one or more persons.

Continuous Annoyance. Permit any animal to cause annoyance, alarm or disturbance for more than 15 continuous minutes at any time of the day or night, be it repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property or create offensive odors which can be noticed beyond the boundary of the owner's property.

Dangerous Animal. Any animal which has the propensity to bite or attack any person or animal without provocation and the capacity to inflict serious harm on such person or animal. Additionally, any animal that has injured a human being or animal without provocation is a dangerous animal.

Keeper. Any person, firm, association, entity or corporation who is the licensed keeper of, or who keeps, or who harbors, or who possesses, or who maintains, or who has custody of, or who exercised control over any animal (including but not limited to any barking dog, dangerous animal, dog, exotic animal, farm animal, fowl, livestock, vicious dog, watchdog or wildlife) or who knowingly permits any such animal to remain on any premises occupied by him or her. Keeper does not include licensed veterinarians or commercial kennel operators temporarily maintaining on their premises, for a period of not more than 30 days, dogs kept by other persons. Any person,

except a licensed veterinarian or commercial kennel operator who resides where any animal is kept, harbored, or cared for, shall be presumed to be the keeper. This presumption may be rebutted by proof that the person has no right in the animal, is not the licensed keeper, and is neither harboring nor caring for the animal.

Leash. Any humane device constructed of rope, leather strap, chain or other sturdy material not exceeding six feet in length, being held in the hand of a person capable of controlling the animal to which it is attached.

Muzzle: A device constructed of strong, soft material or metal. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

Own or Owning: Having a right of property in a dog, caring for or acting as the custodian for a dog, or knowingly permitting a dog to remain on or about premises occupied by that person.

Owner: Any person having a right of property in a dog or who harbors a dog or who has it in his care, or acts as its custodian, or who knowingly permits a dog to remain on or about the "owner's" property.

Running at Large. Off or outside the premises belonging to the person having the care, custody or possession of the dog while the dog is not under the complete control of such person by means of an adequate leash, or is within a vehicle of such person.

Secure Enclosure: A structure in which an animal is confined such that the animal does not have access to humans or other animals. The structure will not be less than eight feet long, four feet wide and five feet tall. If the floor is not concrete, the outside walls must extend into the ground not less than one foot to prohibit the digging out of the animal. The top of the structure must be covered.

Vicious Dog. Any dog that has the propensity to bite, attack, lunge at, chase or knock down a person or animal without provocation and the capacity to inflict serious harm upon, or cause serious harm to, the person or animal shall be regarded as vicious. Additionally if any dog that has bitten a person or animal without provocation is a vicious dog.

## **Section 2.** Licensing.

- (a) Every owner of a dog which has grown a set of permanent canine teeth or has attained the age of six months, whichever event occurs first, shall immediately obtain a license for the dog.
- (b) Licenses shall be valid for one 365 day year, the period being March 1<sup>st</sup> to February 28 and are renewable on March 1<sup>st</sup> of each year, with renewal notice sent out February 1. A penalty set by resolution shall be collected for each dog not licensed by March 15<sup>th</sup> with further penalty set after March 30<sup>th</sup>.
- (c) No license shall be issued until a certificate of vaccination for rabies, valid for the license year, is presented to the licensing department.
- (d) For record purposes, a new owner of a licensed dog is required to notify within thirty (30) days the City Police Department at no additional cost to the new owner.

- (e) A license tag issued to a dog owner shall be attached securely to a collar or harness on the dog that license was issued to, at all times. If a license tag is lost, the owner may obtain a duplicate license tag upon satisfactory proof of loss and payment of the required fee.
- (f) Issuance of License. Licenses shall be issued through the Tillamook City Police Department during regular business hours. All accounting and records shall be the responsibility of that department.
- (g) License Fees. The dog license fee which is due and payable upon the issuance of a license, and the other fees required to be paid under the provisions of this ordinance, shall be set by resolution.
- (h) No license fee shall be required for any service dog. A license shall be issued for such dog upon proper proof of rabies vaccination.

**Section 3.** Dog at Large Prohibited. It shall be unlawful for any person owning or having the care or custody or possession of any male or female dog of any age, to suffer or permit the same to run at large.

**Section 4.** Barking Dogs Prohibited. No person who is the owner of a dog shall allow the dog to bark loudly or with such frequency as to unreasonably deprive a person of peace and quiet. Once a complaint has been received by the police department, a citation may be issued under the following condition: A complaint is signed by the person complaining on the barking dog and that person complaining agrees to appear in court and testify.

**Section 5.** Waste Matter. It shall be unlawful for an animal owner to allow the animal to be an annoyance by depositing solid waste matter on any improved property other than that of the animal owner. It shall be a defense to this section if the animal owner immediately removes the solid waste.

**Section 6.** Poisoning of Animals. No person shall put out or place or allow to be placed any poison or other harmful chemical or product which is likely to harm any dog, farm animal or other animal.

**Section 7.** Removal of Carcasses. No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass.

**Section 8.** Animals at Large. No owner or person in charge of an animal shall permit the animal to be at large. Animals at large may be taken into custody by the city and disposed of in accordance with the procedures provided by ordinance for the impoundment of dogs.

**Section 9.** Animals. When any livestock, poultry, or domestic animals bellow, neigh, bark, bray, bleat, crow or make any other noise and thereby annoy, molest or disturb any person, the keeping and maintaining of the poultry, livestock and domestic animals is declared to be a nuisance. For the purposes of this section, the owner, the person in charge of, or in whose custody said poultry, livestock or domestic animals, or either of them are kept, shall be deemed and conclusively presumed to be maintaining a nuisance.

**Section 10.** Continuous Annoyance. No animal owner shall permit any animal to cause continuous annoyance.

**Section 11.** Animal Confinement. It shall be unlawful for any person to allow or permit any animal to be confined within or on a motor vehicle, or at any location, under such conditions as may endanger the health or well being of the animal, including but not limited to dangerous temperature, lack of food, water or attention, or confinement with a dangerous animal. No enforcement officer shall be held criminally or civilly liable for action pursuant to this section, provided the officer acts in good faith, or probable cause and without malice.

**Section 12.** Parent Responsibility. It shall be no defense of any violation of this Ordinance when the true or registered owner of a dog is of such minor age as to prohibit appearing to answer such charge(s) in court, and upon such occurrence, the parent or guardian of such minor owner shall be required to appear instead and assume the full responsibility of the actions of their minor owner.

**Section 13.** Dog as Public Nuisance. A dog is a public nuisance if it:

1. Bites a person.
2. Chases vehicles or persons.
3. Damages or destroys property of persons other than the owner of the dog.
4. Scatters garbage.
5. Trespasses on private property of persons other than the owner of the dog.
6. Disturbs any person by frequent or prolonged noises.
7. Makes unprovoked attacks on other animals.

**Section 15.** Exception to Dog as Public Nuisance. A dog shall not be considered a public nuisance if the dog bites:

1. A person assaulting the dog's owner or the owner's spouse or children or persons legally residing with the owner, or.
2. A person wrongfully assaulting the dog, or
3. A person trespassing upon premises owned, leased, or rented by the dog's owner or the owner's spouse or children, or
4. A person entering a fully fenced area, regardless of where located, if that area is conspicuously posted with signs warning of the presence of the dog within the fenced area.

**Section 16.** Vicious Dog.

1. No person shall own a vicious dog that is located within the city limits.
2. A vicious dog may be impounded by any peace officer or animal control officer and disposed of in accordance with the provisions of this code for the impoundment and disposition of dogs.
3. A vicious dog running at large that because of its disposition or diseased condition is too hazardous to apprehend, may be destroyed by a peace officer, animal control officer, or by a person acting in defense of the person, the person's family, another person, or another dog or animal.

**Section 17.** Reporting of Biting Dogs or Other Animals.

1. The keeper of a dog or other animal that bites a human being shall immediately notify law enforcement of such bite, the time and circumstances of the bite and name and address of the person bitten, if known.

2. Any person who is bitten by a dog or other animal shall immediately notify the law enforcement of such bite giving the description of the dog or other animal, the time and circumstances of the bite and the name and address of the keeper, if known.
3. When a doctor, veterinarian, hospital employee, or other person has information that a person has been bitten by a dog or other animal, such person shall immediately notify law enforcement.
4. It is sufficient to report as required in this section, to any law enforcement agency having jurisdiction for the location the bite occurred.

**Section 18.** Biting and Rabid Dogs and Other Animals—Quarantine.

1. When either the animal control authority or the appropriate county or state public health agency has grounds to suspect that a dog or other animal is infected with the disease of rabies, there shall be delivered to the keeper of the dog or other animal, a written notice. The biting of any person by a dog or other animal shall constitute adequate grounds for suspecting the dog or other animal to be so infected. The keeper shall thereupon be required to quarantine the dog or other animal for 10 days. The delivery of the notice to a member of the keeper's family 14 years of age or older at the premises where the dog or other animal is kept or at the keeper's usual place of residence shall be considered a delivery of the notice to the keeper. Any dog or other animal required to be quarantined shall be confined as follows:
  - A. Inside the keeper's home or garage. Pet can be exercised within a fenced yard under adult supervision or walked on a leash within keeper's yard under the control of a responsible adult.
    1. Pet is to be kept away from other animals and people. This does not include other pets within the home or family members.
    2. Pet must not be removed from the residence for any reason during the quarantine period. This includes rides in the car or walks off keeper's property.
    3. If the keeper's pet has been vaccinated for rabies the keeper will need to Provide proof of the vaccine or the name and telephone number of the keeper's veterinarian.
    4. If the keeper's pet has not been vaccinated for rabies the keeper will have to wait until the pet is released from quarantine before the keeper's veterinarian can give the vaccination.
  - B. At the owner's expense, in a veterinary clinic.
  - C. Any animal that has been bitten by a dog or other animal proved to be rabid shall be destroyed.
  - D. If a dog or other animal exhibits symptoms of rabies while it is under Quarantine, the director of public health may order in writing that it be destroyed and that its head be submitted to the State Public Health Laboratory.

**Section 19.** Impoundment of Dogs.

1. Any peace officer or animal control officer may impound a dog that is in violation of this code.
2. Any person whose property has been trespassed upon by any dog or other animal in violation of this code may apprehend that dog and contact the police department.

3. If an animal control officer or a peace officer has probable cause to believe that any animal that is in an unoccupied motor vehicle may be in danger, the officer may enter the motor vehicle and impound the animal and leave a notice in the vehicle where the animal may be reclaimed.
4. Any peace officer or animal control officer may impound a dog for safekeeping if the owner is being transported to jail or the hospital until a family member or friend can claim the dog and pay all associated fees.

**Section 20.** Impounding Regulations and Disposition of Impounded Dogs.

1. The animal control authority shall keep any dog impounded for the period Of time hereinafter specified. The animal control authority shall dispose of such dogs in accordance with the following provisions.
  - A. An unlicensed dog or a dog that the keeper is unknown which has not been redeemed within three days after impoundment may be adopted out or destroyed.
  - B. A licensed dog for which the keeper is known which has not been Redeemed within five days of notification of the owner by telephone or leaving a notice of impoundment on the keeper's property in plain view May be adopted out or destroyed.

**Section 21.** Cost Paid by Responsible Person. Any reasonable costs incurred by the Police Department in seizing, impounding or confining any dangerous or vicious animal shall be charged against the owner, keeper or harbinger of such animal. Such charge shall be in addition to any fine or penalty provided for violating this ordinance.

**Section 22.** Interference with Officer. It shall be unlawful for any person to interfere in any way with, any police officer or dog control officer of the City of Tillamook engaged in seizing or impounding any dog under authority of this ordinance.

**Section 23.** Entry onto Private Land. Any dog control officer or any peace officer shall have the privilege of entering onto private land in the course of the officer's duties in enforcing the provisions of this ordinance, but such officer shall not enter into any building or dwelling without legal authorization or permission of the owner or occupant of the premises.

**Section 24.** Penalties. A violation of any section of this ordinance is to be set by resolution.

**Section 25.** Separate Violations.

1. Each day's violation of a provision of this Ordinance constitutes a separate violation.
2. The abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance.
3. A citation or other charging instrument filed in court shall include all violations from the date of any written warning, (a.k.a. abatement) notice as cited in the charging instrument.
4. There is no requirement for any violation of this ordinance, that a written notice must first be delivered, to abate or cite, the violation. For determining the number of days the violation has occurred or has continued it shall be from the

day the violation is first identified by the City, not the date a warning, written or verbal, is provided or received.

**Section 26.** Repeal. Ordinance 891, 903, 917, 1066, 1076 and all other ordinances or portions thereof which are inconsistent with the terms of this ordinance are repealed.

**Section 27.** Severability. If a portion of this ordinance is for any reason held to be invalid, such decision shall not affect validity of the remaining portions of this ordinance.

**Section 28.** Saving Clause. The repeal of any ordinance by Section 23 shall not preclude any action against any person who violated the ordinance prior to the effective date of this ordinance.

PASSED FIRST READING by the Council this 1st day of July, 2013.

PASSED SECOND READING by the Council this 15th day of July, 2013.

APPROVED this 15th day of July, 2013.

  
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Mayor

ATTEST:

  
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City Recorder